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19
20 UNITED STATES DISTRICT COURT
21 FOR THE CENTRAL DISTRICT OF CALIFORNIA
22
23

24 CITY OF COLTON, a California
25 municipal corporation,

26 Plaintiff,

27 V.

28 AMERICAN PROMOTIONAL
29 EVENTS, INC., et al.,

30 Defendants.

31 AND CONSOLIDATED ACTIONS

32 Case No. ED CV 09-01864 PSG (SSx)
33 (and consolidated cases)

34 DISCOVERY MATTER

35 **DECLARATION OF STANLEY
36 BAUER**

37 Hearing Date: November 22, 2011
38 Time: 11:00 a.m.
39 Place: First Resolution
40 633 W. Fifth Street
41 28th Floor
42 Los Angeles, CA 90017
43 Judge: Hon. Venetta Tassopoulos

44 Discovery Cutoff Date: Feb. 29, 2012
45 Trial Date: March 25, 2013

1 DECLARATION OF STANLEY BAUER

2 I, Stanley Bauer, hereby declare as follows:

3 1. I am the Formerly Used Defense Site (FUDS) Potentially Responsible
4 Party (PRP) Program Support Manager at the U.S. Army Corps of Engineers
5 Environmental and Munitions Center of Expertise in the Environmental Compliance
6 and Management Division located in Omaha, NE. I became the FUDS PRP Program
7 Support Manager on or about March 2001.

8 2. My responsibilities include providing general technical assistance to all
9 USACE districts evaluating historical operations on former military installations, now
known as FUDS. Although I have significant experience gained by working for
10 many years in the FUDS program, investigations of FUDS sites are conducted by
11 various U.S. Army Corps of Engineers (USACE) districts across the country, not the
12 Center of Expertise where I work. Additionally, I do not personally conduct site
13 investigations. Site investigations, instead, are conducted by numerous other
14 individuals in USACE districts across the country or by Contractors working under
15 USACE contracts.

16 3. There were 22 Corps of Engineers districts, now 14 districts, that execute
17 FUDS projects, both investigations and remedial designs and actions across the
country. Ten of those districts, including Sacramento District, are designated as
18 FUDS-PRP Districts with capabilities to execute FUDS-PRP projects. Those projects
19 involve private PRPs.

20 4. I have read the arguments presented by Goodrich Corporation and Pyro
21 Spectaculars Inc.'s Motion to Compel Supplemental Responses to Interrogatories
22 (Joint Stipulation).

23 5. As I explained above, a FUDS-PRP project is executed by a designated
24 district. The FUDS-PRP project J09CA057203, recorded as *RIALTO AMMUNITION*
25 *STORAGE POIT (sic)* is assigned to Sacramento District. The FUDS program
26 manager at Sacramento District is Mr. Jerry Vincent. Mr. Vincent and Sacramento
27 District were responsible for overall project management. The preparation of the
28 *Final Operational History 1941-1945 Rialto Ammunition Back-Up Storage Point* was

1 contracted with SAIC through the Los Angeles District which provided project
2 management support of SAIC's work. Sacramento District personnel, and Mr. Jerry
3 Vincent in particular, are experienced and capable of conducting historical site
4 investigations such as this, regarding FUDS. I do not directly manage investigations
5 or site-specific historical research projects and there are many FUDS projects where I
6 play no role at all, as there are qualified personnel in the various districts that execute
7 the program. It is not unusual that I was not responsible for preparation of the *Final*
8 *Report Operational History 1941-1945 Rialto Ammunition Back-up Storage Point.*

9 6. I was deposed for two days in April of this year and answered questions
10 by counsel for the Goodrich Corporation. These questions included questions about
11 the interrogatories described in the Joint Statement, particularly those numbered 3-12,
12 questions regarding other technical manuals and bulletins, and questions regarding
13 Common Operations Reports (COs). Common Operations Reports (COs) is the
14 general term used when referring to a series of reports including Support Services
15 Common Operations (CO), Range Operations (RO), and Installation Reports (IRs). I
16 provided copies of technical manuals, technical bulletins, CO, ROs and IRs to the
17 Department of Justice and have been told that those documents were promptly
18 provided to Goodrich.

19 7. I understand that Goodrich Corporation has left my deposition open in
20 April of this year. I am not aware of any request by Goodrich to continue the
21 deposition since providing the COs, ROs, IRs, technical manuals, and various other
22 documents.

23 8. As I testified in April, I do not have any specialized knowledge or
24 expertise regarding site-specific operations at the RABSP during WWII, though I do
25 have a general understanding of the site and its operations from skimming the *Final*
26 *Report Operational History 1941-1945 Rialto Ammunition Back-Up Storage Point*
27 prior to my deposition in April. In determining whom to consult on site-specific
28 issues, Mr. Vincent was the logical choice given the role of the Sacramento District in
the preparation of the Operational History Report.

9. I am not aware of anything in the technical manuals or bulletins that I've reviewed that substantiate the allegations of TCE use at the RABSP made by Goodrich. Technical manuals and bulletins are simply not site-specific and do not establish that certain operations were conducted on RABSP.

10. The Common Operations Reports (COs), as the name suggests, describe common operations that are often evaluated at FUDS sites. The user's guide contained in each CO makes it clear that "Installation and Common Operations Reports are not site specific." They provide the USACE districts that conduct site-specific investigations with descriptions of how these select operations were conducted based on cited period manuals and other documentation, if the operation occurred on the installation. Information from the COs must be used in context with the site-specific information, period of time when the installation was active and the echelon of maintenance. Further, I am familiar with all the COs and am not aware of any information in them that states that TCE was used at the RABSP. Again, these reports are general resources, not site-specific information.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Signed this 31st day of October, 2011.

Stanley Bauer

Stanley Bauer
Formerly Used Defense Site (FUDS) Potentially
Responsible Party (PRP) Program Support
Manager
U.S. Army Corps of Engineers